UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/438,215	11/12/1999	RON NEVO	04198.P007	9028

23419 7590 05/24/2004

COOLEY GODWARD, LLP
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
PALO ALTO, CA 94306

EXAMINER	
WEST, LEWIS G	

ART UNIT	PAPER NUMBER
2682	15

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/438,215	NEVO ET AL.	
	Examiner	Art Unit	
	Lewis G. West	2682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *13 September 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13 and 14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Although the specifications are now properly named in the claims, a version number and/or date of the version must be indicated in the specification for all named standards, as standards such as Bluetooth are subject to revision and a patent cannot be dynamic in nature. Correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3 and 6are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 and 6 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because the prediction of interference based on a signal from a

receiver is not patentably distinct for proactively reducing interference based on a received signal, and dependent claims 2-3 and 6 of the application are identical or substantially identical to claims 2-3 and 6 of the patent.

Claim 4 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because the prediction of interference is not patentably distinct from proactively reducing interference, and examiner takes official notice that it would have been notoriously obvious at the time of the invention that constant frequency systems may interfere with frequency hopping systems. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to ascertain a constant frequency in a nearby system to compensate for interference from any nearby system.

Claim 5 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because the prediction of interference is not patentably distinct from proactively reducing interference, and examiner takes official notice that it would have been notoriously obvious at the time of the invention that constant frequency systems may interfere with frequency hopping systems. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to ascertain a constant frequency and predict interference in a nearby system in order to compensate for interference from any nearby system.

Claims 7-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 7 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because the prediction of interference is not patentably distinct from proactively reducing interference, and dependent claims of the application are identical or substantially identical to claim 7 of the patent.

Claims 10 and 11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because the prediction of interference is not patentably distinct from proactively reducing interference, and both claims disclose logic to notify a secondary device of predicted interference and suspend operation.

Claim 12 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because the prediction of interference is not patentably distinct for proactively reducing interference, and claim 13 adds the same further limitations regarding preemptive notification of interference.

Claim 13 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because the prediction of interference is not patentably distinct for proactively

reducing interference, and claim 13 adds the same further limitations regarding protocols as does claim 9 of the patent.

Claim 14 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9 of U.S. Patent No. 6,600,726. If the listed protocols are being used as first and second protocol, one must be the first and one must be the second, Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Bluetooth as one protocol and one of the other listed protocols as the second protocol.

Claim 15 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the conflicting claims are not identical, they are not patentably distinct from each other because the prediction of interference is not patentably distinct from proactively reducing interference.

Claim 16 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the conflicting claims are not identical, they are not patentably distinct from each other because the prediction of interference is not patentably distinct from proactively reducing interference, and both claims disclose ascertaining a frequency-hopping pattern.

Claim 17 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 18 of U.S. Patent No. 6,600,726.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the prediction of interference is not patentably distinct from proactively reducing interference, and both claims disclose predicting interference based on a frequency-hopping pattern.

Claim 18 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because the prediction of interference is not patentably distinct from proactively reducing interference, and examiner takes official notice that it would have been notoriously obvious at the time of the invention that constant frequency systems may interfere with frequency hopping systems. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to ascertain a constant frequency in a nearby system to compensate for interference from any nearby system.

Claim 19 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 18 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because the prediction of interference is not patentably distinct from proactively reducing interference, and examiner takes official notice that it would have been notoriously obvious at the time of the invention that constant frequency systems may interfere with frequency hopping systems. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to ascertain a constant frequency and predict interference in a nearby system in order to compensate for interference from any nearby system.

Claim 20 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because and both claims disclose suspending operation during periods of predicted interference.

Claim 21 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 22 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because using a notch filter to cancel predicted interference.

Claim 22 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 22 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because both disclose determining and an inverse notch filter for predicted interference.

Claim 23 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because both disclose filtering out predicted interference.

Claim 24 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because both disclose preemptive notification.

Claim 25 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because both disclose suspending operation during predicted interference.

Claim 26 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because both disclose preemptive notification.

Claim 27 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 18 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because the prediction of interference is not patentably distinct from proactively reducing interference between the plurality of apparatuses.

Claim 28 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 18 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because both disclose logic to predict interference.

Claim 29 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20 of U.S. Patent No. 6,600,726. Although the conflicting claims are not identical, they are not patentably distinct from each other because both disclose suspending transmission to avoid predicted interference.

Claim 30 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21 of U.S. Patent No. 6,600,726.

Although the conflicting claims are not identical, they are not patentably distinct from each other because both disclose applying filtering to cancel predicted interference.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lewis G. West whose telephone number is 703-308-9298. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 703-308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lewis West
(703) 308-9298
May 13, 2004

VIVIAN CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
5/17/04